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Docket No.: 0070.1100

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Josep Montanyà Silvestre

Serial No. 10/534,736

Group Art Unit: 2832

Confirmation No. 9052

Filed: May 12, 2005

Examiner: Rojas, Bernard

For: MINIATURIZED RELAY AND CORRESPONDING USES

ARGUMENTS IN SUPPORT OF PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant requests review of the final rejection in the Office Action mailed July 7, 2009 ("current Office Action"). A Petition for a three-month extension is filed extending the period for response to January 7, 2010.

A Notice of Appeal together with the requisite fees, are being filed with this Request. No amendments are being filed with this Request.

This review is requested since the rejections of record are in error. Applicant submits this request is based on clear legal and factual deficiencies in the rejections and not strictly an interpretation of the claims or prior art teachings.

Claims 46-48 are allowed. Claims 41-44 and 49-70 are withdrawn.

But, on pages 2-5 of the current Office Action, the Examiner rejects independent claims 38 and 75 (and dependent claims 39-40, 45, and 71-73) under 35 U.S.C. §102(e) as being anticipated by Deligianni et al. (US 6,917,268). ("Deligianni")

Independent claim 38 recites a miniaturized relay including ". . . a conductive element arranged in said intermediate space, said conductive element being a detached part being a detached part for movement freely along the intermediate space between a first end of said intermediate space, defining a first zone, and a second end of said intermediate space, defining

a second zone, . . . one of said first, second and third condenser plates induces a charge distribution in said conducting element that forces said conducting element to move along the intermediate space, wherein, when said element contacts said first stops said conductive element closes said electric circuit . . ." (Emphasis added).

Independent claim 75 recites a miniaturized relay including ". . . a conductive element that is not in electrical contact with walls that define a space when moving, . . . one of said first, second and third condenser plates induces a charge distribution in the conductive element that forces said conductive element to move . . ." (Emphasis added).

* * *

In rejecting independent claim 38, the Examiner asserts Deligianni teaches:

[A] conductive element [6, 7, 8, A1, A2] arranged in said intermediate space, said conductive element being a detached part [6, 7 A1, A2]• . . . defining a first zone [left, 6 moves to close contact C1], and a second end of said intermediate space, defining a second zone [right, 6 moves to close contact C2], . . . and wherein a closing of the electric circuit . . . the electrical circuit is closed when voltages are applied to the various electrodes V—V3 regardless of the voltage in the conductive element 7.

(Emphasis added, See, for example, Office Action at pages 2-3).

In rejecting independent claim 75, the Examiner asserts Deligianni teaches:

[A] conductive element [6, 7, 8, A1, A2] that is not in electrical contact with walls that define a space when moving [figure 2], wherein at least one of said first, second and third condenser plates induces a charge distribution in the conductive element [via A1, A2] that forces said conductive element to move between a one end of a space and defining the first zone [left, 6 moves to close contact C1], and an other end of the space defining the second zone [right, 6 moves to close contact C2].

(Emphasis added, see, for example, Office Action at 5, lines 14-20).

* * *

The following clear errors in the Examiner's rejections are specified:

I. Deligianni teaches:

The Beam 6 and the head 7 are formed of insulators such as SiO₂, SiN, Silicon oxynitride, or elastomeric type materials.

(Emphasis added, See, for example, col. 3, lines 40-43).

Applicant submits that Deligianni's disclosure of beam 6 and head 7 formed of insulators does not teach "a conductive element," as recited by each of claims 38 and 75, as the Examiner asserts.

Accordingly, Applicant submits that assertions of the Examiner such as "conductive element 6 moves to close contact C1" and "regardless of the voltage in the conductive element 7" in rejecting claim 38, and assertions of the Examiner in rejecting claim 75 such as "conductive element to move between a one end of a space and defining the first zone [left, 6 moves to close contact C1], and an other end of the space defining the second zone [right, 6 moves to close contact C2]" are in error.

Thus, Applicant submits that a limitation recited by each of the independent claims 38 and 75 is not met by Deligianni and the rejection is in error and should be withdrawn.

* * *

II. The Examiner rejects claim 38 relying on Deligianni as teaching:

[W]herein a closing of the electric circuit occurs even though the conductive element remains at a voltage in principle unknown, which will be forced by the electric circuit that is closed [the electrical circuit is closed when voltages are applied to the various electrodes V—V3 regardless of the voltage in the conductive element 7, col. 2 lines 65 to col. 3 line 9 and col. 4 lines 9-12].

(See, for example, Office Action at page 3, lines 16-21)

But, claim 38 does not recite a relay "wherein a closing of the electric circuit occurs even though the conductive element remains at a voltage in principle unknown, which will be forced by the electric circuit that is closed."

Rather, claim 38, as amended by the Amendment filed on April 16, 2009 recites a relay including "wherein a closing of the electric circuit is not affected by a voltage of the conductive element."

Thus, support has not been provided by the Examiner as to Deligianni teaching all of the limitations of independent claim 38.

Thus, Applicant submits that the rejection is in error and should be withdrawn.

III. Dependent claims 39-40, 45, and 71-73 inherit the patentable recitations of base claim 38 and therefore, patentably distinguish over Deligianni. Thus, the rejection of claim 39-40, 45, and 71-73 is in error and should be withdrawn

CONCLUSION

For the above reasons, it is submitted that the Examiner's rejection of claims is in error and should be withdrawn.

Since claims 38 -40, 45, 71-73 and 75 patentably distinguish over the art currently relied on by the Examiner, claims 38 -40, 45, 71-73 and 75 should be allowed.

Thus, withdrawal of the final rejection and allowance is respectfully requested.

If there are any additional fees associated with filing of this Request, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: January 7, 2010

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